

83,963-02

**Application for Writ of Habeas Corpus**  
**from BEXAR County**  
**D379 Court**

**TRIAL COURT WRIT NO. 2015CR3807-W1**

## CLERK'S SUMMARY SHEET

APPLICANT'S NAME: BENJAMIN ERICKSON  
 (As reflected in judgment)  
 OFFENSE: AGG ASSLT W/DEADLY WPN  
 (As reflected in judgment)  
 CAUSE NO: 2015CR3807  
 (As reflected in judgment)  
 PLEA:     GUILTY     NOT GUILTY   X   NOLO CONTENDERE  
 SENTENCE: 6 YEARS DATE: JUNE 4, 2015  
 (Terms of years reflected in judgment)  
 TRIAL DATE: JUNE 4, 2015  
 JUDGE'S NAME: RON RANGEL  
 (Judge presiding at trial)  
 APPEAL NO: \_\_\_\_\_  
 (If applicable)  
 CITATION TO OPINION:     S.W.3d      
 (If applicable)  
 HEARING HELD:     YES     NO  
 (Pertaining to the application for writ of habeas corpus)  
 FINDINGS & CONCLUSIONS FILED:  X  YES     NO  
 (Pertaining to the application for writ of habeas corpus)  
 RECOMMENDATION:     GRANT     DENY  X  DISMISS  
 (Trial court's recommendation regarding application for writ of habeas corpus)  
 JUDGE'S NAME: RON RANGEL  
 (Judge presiding over habeas corpus proceeding)  
 NAME OF COUNSEL IF APPLICANT IS REPRESENTED: \_\_\_\_\_

RECEIVED IN  
COURT OF CRIMINAL APPEALS

SEP 29 2015

Abel Acosta, Clerk

**This document contains some  
pages that are of poor quality  
at the time of imaging.**

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**CAPTION**

**THE STATE OF TEXAS       \***

**COUNTY OF BEXAR       \***

At a regular term of the 379TH Judicial District Court of Bexar County, Texas, begun and held at San Antonio, State of Texas, before the Honorable RON RANGEL Presiding thereof, which opened on the 1<sup>ST</sup> day of SEPTEMBER A.D., 2015, and will adjourn on the 31<sup>ST</sup> day of OCTOBER A.D., 2015, the following cause came on for trial, to-wit:

**NO. 2015CR3807-W1**

**EX PARTE: ERICKSON, BENJAMIN**

**VS**

**THE STATE OF TEXAS**

\*\*\*\*\*

Case No. 2015CR3807-W1  
(The Clerk of the convicting court will fill this line in.)

FILED  
\_\_\_ O'CLOCK \_\_\_ M

IN THE COURT OF CRIMINAL APPEALS OF TEXAS

APPLICATION FOR A WRIT OF HABEAS CORPUS  
SEEKING RELIEF FROM FINAL FELONY CONVICTION  
UNDER CODE OF CRIMINAL PROCEDURE, ARTICLE 11.07

AUG 10 2015  
DONNA KAY MCKINNEY  
District Clerk, Bexar County, Texas  
BY Monica Rivera  
DEPUTY

NAME: BENJAMIN ERICKSON

DATE OF BIRTH: 8-1-74

PLACE OF CONFINEMENT: T.D.C. / GARZA WEST UNIT

TDCJ-CID NUMBER: 02003867 SID NUMBER: \_\_\_\_\_

(1) This application concerns (check all that apply):

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> a conviction | <input type="checkbox"/> parole  |
| <input type="checkbox"/> a sentence              | <input type="checkbox"/> mandatory supervision                                   |
| <input type="checkbox"/> time credit             | <input type="checkbox"/> out-of-time appeal or petition for discretionary review |

(2) What district court entered the judgment of the conviction you want relief from?  
(Include the court number and county.)

379TH BEXAR CO.

(3) What was the case number in the trial court?

2015-CR-3807

(4) What was the name of the trial judge?

JUDGE RON RANGEL

- (5) Were you represented by counsel? If yes, provide the attorney's name:

MARK MCKAY

- (6) What was the date that the judgment was entered?

6-4-2015

- (7) For what offense were you convicted and what was the sentence?

AGG. ASSLT W/DEADLY WPN

- (8) If you were sentenced on more than one count of an indictment in the same court at the same time, what counts were you convicted of and what was the sentence in each count?

N/A

- (9) What was the plea you entered? (Check one.)

☐ guilty-open plea

☐ guilty-plea bargain

☐ not guilty

☒ *nolo contendere*/no contest

If you entered different pleas to counts in a multi-count indictment, please explain:

- (10) What kind of trial did you have?

☐ no jury

☐ jury for guilt and punishment

☐ jury for guilt, judge for punishment

(11) Did you testify at trial? If yes, at what phase of the trial did you testify?

N/A

(12) Did you appeal from the judgment of conviction?

☒ yes

☐ no

If you did appeal, answer the following questions:

(A) What court of appeals did you appeal to? 4TH COURT OF APPEALS

(B) What was the case number? 04-15-00388-CR

(C) Were you represented by counsel on appeal? If yes, provide the attorney's name:

NO

(D) What was the decision and the date of the decision? ~~REVERSED~~ DISMISSED

(13) Did you file a petition for discretionary review in the Court of Criminal Appeals?

☐ yes

☒ no

If you did file a petition for discretionary review, answer the following questions:

(A) What was the case number? N/A

(B) What was the decision and the date of the decision? N/A

(14) Have you previously filed an application for a writ of habeas corpus under Article 11.07 of the Texas Code of Criminal Procedure challenging this conviction?

☐ yes

☒ no

If you answered yes, answer the following questions:

(A) What was the Court of Criminal Appeals' writ number? N/A

(B) What was the decision and the date of the decision? N/A

(C) Please identify the reason that the current claims were not presented and could not have been presented on your previous application.

N/A  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(15) Do you currently have any petition or appeal pending in any other state or federal court?

☐ yes

☒ no

If you answered yes, please provide the name of the court and the case number:

N/A

(16) If you are presenting a claim for time credit, have you exhausted your administrative remedies by presenting your claim to the time credit resolution system of the Texas Department of Criminal Justice? (This requirement applies to any final felony conviction, including state jail felonies)

☐ yes

☒ no

If you answered yes, answer the following questions:

(A) What date did you present the claim? N/A

(B) Did you receive a decision and, if yes, what was the date of the decision?

N/A

If you answered no, please explain why you have not submitted your claim:

N/A

- (17) Beginning on page 6, state *concisely* every legal ground for your claim that you are being unlawfully restrained, and then briefly summarize the facts supporting each ground. You must present each ground on the form application and a brief summary of the facts. *If your grounds and brief summary of the facts have not been presented on the form application, the Court will not consider your grounds.* If you have more than four grounds, use pages 14 and 15 of the form, which you may copy as many times as needed to give you a separate page for each ground, with each ground numbered in sequence. The recitation of the facts supporting each ground must be no longer than the two pages provided for the ground in the form.

You may include with the form a memorandum of law if you want to present legal authorities, but the Court will *not* consider grounds for relief set out in a memorandum of law that were not raised on the form. The citations and argument must be in a memorandum that complies with Texas Rule of Appellate Procedure 73 and does not exceed 15,000 words if computer-generated or 50 pages if not. If you are challenging the validity of your conviction, please include a summary of the facts pertaining to your offense and trial in your memorandum.



**GROUND ONE:**

INEFFECTIVE ASSISTANCE

OF COUNSEL

**FACTS SUPPORTING GROUND ONE:**

MY ATTORNEY OF RECORD, MR. MARK MCKAY, HERE AFTER  
KNOWN AS "MY COUNSEL," IN THIS MATTER DID RENDER  
HIS ASSISTANCE INEFFECTIVE BY NOT DOING ANY PROPER  
RESEARCH INTO MY CASES, THERE ARE PHONE RECORDINGS  
FROM THE COUNTY JAIL BETWEEN MY WIFE & MYSELF  
ON MARCH 16TH & 18TH OF 2015 THAT SUPPORT MY CLAIM OF  
INNOCENCE. "MY COUNSEL" ALSO FAILED TO EXAMINE THE  
FORENSIC EVIDENCE, IN BOTH CASES THERE IS NO  
EVIDENCE SUPPORTING THE STATES CLAIM THAT A  
CRIME HAD BEEN COMMITTED. "MY COUNSEL" FAILED IN  
HIS DUTY BY NOT INFORMING THE COURT THAT MY  
WIFE WAS/IS USING THIS CASE TO MANIPULATE THE  
DIVORCE & CUSTODY CASES IN ANOTHER COURT. "MY COUNSEL

LIED ABOUT WHAT I WAS SIGNING & WHY I WAS SIGNING  
IT, I AM BASICALLY ILLITERATE & COULD NOT READ THE  
PLEA AGREEMENT, NOR UNDERSTAND IT, I HAD TO RELY ON WHAT  
"MY COUNSEL" SAID. MY COUNSEL GOT AGGRIEVATED, USING PROFANE  
LANGUAGE & SAYING "I NEED TO HURRY & SIGN THE (BLANKING)  
PLEA BEFORE MY WIFE SHOWS UP & MAKES THINGS WORSE"  
ECT... EVEN THOUGH I HAD MAINTAINED MY DESIRE TO GO TO  
TRAIL, "MY COUNSEL" ADVISED ME NOT TO WITH OUT EVEN KNOWING  
ALL THE FACTS. "MY COUNSEL" ALSO FAILED TO ASK THE COURT  
FOR A MENTAL EVALUATION, I WAS DIAGNOSED WITH PTSD,  
WHILE I WAS INCARCERATED IN BEKAR COUNTY JAIL &  
PLACED ON HEAVY MEDICATIONS. MY COUNSEL WAS AWARE OF  
THIS BUT DID NOT BRING IT TO THE ATTENTION OF THE  
COURT, INSTEAD MY COUNSEL KEPT PRESSURING ME TO  
SIGN A PLEA AGREEMENT.

GROUND TWO:

MEDICATION INDUCED DEMENTED MENTAL  
CAPACITY

FACTS SUPPORTING GROUND TWO:

WHILE IN BEXAR CO. JAIL I WAS  
DIAGNOSED AS HAVING P.T.S.D. (POST TRAMATIC STRESS  
DISORDER) & WAS PLACED ON HEAVY MEDICATIONS: ZOLOFT  
50MG. ONCE A DAY, TRIEPTUL 600 MG TWICE A DAY,  
CLAVIL 75 MG ONCE A DAY, & PRAZOSIN 2 MG. ONCE A  
DAY. ON 6/4/15 I HAD BEEN ON THIS MEDICATION FOR  
ABOUT 2½ - 3 MONTHS & WAS NOT USE TO THEM, I WOULD  
FEEL DISCONNECTED & UNABLE TO THINK CLEARLY OR  
FUNCTION NORMALLY. ON 6/4/15 (MY COURT DATE) I WAS  
GIVEN MY EVENING MEDICATION BETWEEN 1100 & 1130 PM ON  
THE 3RD & WAS GIVEN MY MORNING MEDICATION BETWEEN  
3:30 & 4:00 AM ABOUT 4 HOURS APART. BY THE TIME I GOT TO  
COURT I WAS OUT OF MY MIND, I WAS SEEING IN TUNNEL

VISION & EVERYTHING SEEMED FAR AWAY & UNREAL &  
I WAS UNABLE TO MAKE AN INFORMED DECISION. "MY  
COUNSEL" WAS AWARE OF MY DIAGNOSIS & THAT I WAS ON  
MEDICATION, BUT INSTEAD OF ASKING THE COURT FOR A  
MENTAL EVALUATION OR A POSTPONEMENT UNTIL I WAS  
IN MY "RIGHT MIND" MY COUNSEL" BECAME AGGITATED &  
WAS SWEARING & THREATENING ME TO SIGN THE PLEA  
AGREEMENT WHILE I WAS "UNAWARE" OF WHAT WAS HAPPENING.  
& THEN "MY COUNSEL" "COACHED" ME THROUGH WHAT I  
NEEDED TO SAY TO JUDGE RANGEL. HAD I BEEN IN MY  
RIGHT STATE OF MIND I WOULD HAVE INSISTED ON  
GOING TO TRIAL AS I HAD BEEN DOING I WOULD NEVER  
HAVE SIGNED THAT PLEA AGREEMENT. MY MEDICATION  
HAS SINCE BEEN "ADJUSTED" & I AM NOW ABLE TO  
FUNCTION NORMALLY.

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[illegible]

Blank lined paper with two punch holes at the top.

[illegible][illegible]





[illegible][illegible]



**WHEREFORE, APPLICANT PRAYS THAT THE COURT GRANT APPLICANT  
RELIEF TO WHICH HE MAY BE ENTITLED IN THIS PROCEEDING.**

**VERIFICATION**

This application must be verified or it will be dismissed for non-compliance. For verification purposes, an applicant is a person filing the application on his or her own behalf. A petitioner is a person filing the application on behalf of an applicant, for example, an applicant's attorney. An inmate is a person who is in custody.

The inmate applicant must sign either the "Oath Before a Notary Public" before a notary public or the "Inmate's Declaration" without a notary public. If the inmate is represented by a licensed attorney, the attorney may sign the "Oath Before a Notary Public" as petitioner and then complete "Petitioner's Information." A non-inmate applicant must sign the "Oath Before a Notary Public" before a notary public unless he is represented by a licensed attorney, in which case the attorney may sign the verification as petitioner.

A non-inmate non-attorney petitioner must sign the "Oath Before a Notary Public" before a notary public and must also complete "Petitioner's Information." An inmate petitioner must sign either the "Oath Before a Notary Public" before a notary public or the "Inmate's Declaration" without a notary public and must also complete the appropriate "Petitioner's Information."

**OATH BEFORE A NOTARY PUBLIC**

**STATE OF TEXAS**

**COUNTY OF \_\_\_\_\_**

\_\_\_\_\_, being duly sworn, under oath says: "I am the  
applicant / petitioner (circle one) in this action and know the contents of the above application for  
a writ of habeas corpus and, according to my belief, the facts stated in the application are true."

\_\_\_\_\_  
Signature of Applicant / Petitioner (circle one)

SUBSCRIBED AND SWORN TO BEFORE ME THIS \_\_\_\_ DAY OF \_\_\_\_\_,  
20\_\_.

\_\_\_\_\_  
Signature of Notary Public

**PETITIONER'S INFORMATION**

Petitioner's printed name: \_\_\_\_\_

State bar number, if applicable: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

**INMATE'S DECLARATION**

I, BENJAMIN ERICKSON, am the applicant / petitioner (circle one) and  
being presently incarcerated in TDCJ, declare under penalty of  
perjury that, according to my belief, the facts stated in the above application are true and correct.

Signed on 7-24, 2015.

Benjamin Erickson  
Signature of Applicant / Petitioner (circle one)

**PETITIONER'S INFORMATION**

Petitioner's printed name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

Signed on \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
**Signature of Petitioner**

## **APPENDIX F**

### **COURT OF CRIMINAL APPEALS OF TEXAS**

#### **APPLICATION FOR A WRIT OF HABEAS CORPUS SEEKING RELIEF FROM FINAL FELONY CONVICTION UNDER CODE OF CRIMINAL PROCEDURE, ARTICLE 11.07**

#### **INSTRUCTIONS**

- 1. You must use the complete form, which begins on the following page, to file an application for a writ of habeas corpus seeking relief from a final felony conviction under Article 11.07 of the Code of Criminal Procedure. (This form is not for death-penalty cases, probated sentences which have not been revoked, or misdemeanors.)**
- 2. The district clerk of the county in which you were convicted will make this form available to you, on request, without charge.**
- 3. You must file the entire writ application form, including those sections that do not apply to you. If any pages are missing from the form, or if the questions have been renumbered or omitted, your entire application may be dismissed as non-compliant.**
- 4. You must make a separate application on a separate form for each judgment of conviction you seek relief from. Even if the judgments were entered in the same court on the same day, you must make a separate application for each one.**
- 5. Answer every item that applies to you on the form. Do not attach any additional pages for any item.**
- 6. You must include all grounds for relief on the application form as provided by the instructions under item 17. You must also briefly summarize the facts of your claim on the application form as provided by the instructions under item 17. Each ground shall begin on a new page, and the recitation of the facts supporting the ground shall be no longer than the two pages provided for the claim in the form.**
- 7. Legal citations and arguments may be made in a separate memorandum that complies with Texas Rule of Appellate Procedure 73 and does not exceed 15,000 words if computer-generated or 50 pages if not.**
- 8. You must verify the application by signing either the Oath Before Notary Public or the Inmate's Declaration, which are at the end of this form on pages 11 and 12. You may be prosecuted and convicted for aggravated perjury if you make any false statement**

**of a material fact in this application.**

- 9. When the application is fully completed, mail the original to the district clerk of the county of conviction. Keep a copy of the application for your records.**
- 10. You must notify the district clerk of the county of conviction of any change in address after you have filed your application.**

## MEMORANDUM 1

IN SUPPORT OF GROUND ONE: INEFFECTIVE COUNSEL

### CASE LAW

STRICTLAND V. WASHINGTON 466 U.S. 688 (1984)

"COUNSEL MUST, TO ACT EFFECTIVELY INVESTIGATE SUFFICIENTLY."

690-691: "STRATEGIC DECISIONS BY COUNSEL ARE REASONABLE ONLY TO THE EXTENT THAT THEY ARE BASED ON ADEQUATE INVESTIGATION & KNOWLEDGE OF THE APPLICABLE LAW."

EX-PARTE POOLE 738 S.W. 2ND 285 (TEX. APP. 1987)

"IT IS FUNDAMENTAL THAT AN ATTORNEY BE AQUAINTED WITH THE LAW & THE FACTS OF THE CASE."

McMANN V. RICHARDSON 397 U.S. 759, 771 (1970)

"THE RIGHT TO THE ASSISTANCE OF COUNSEL IS GUARANTEED BY THE SIXTH & 14TH AMENDMENT TO THE UNITED STATES CONSTITUTION & ARTICLE I, SECTION 10 OF THE TEXAS CONSTITUTION. THE RIGHT TO ASSISTANCE OF COUNSEL HAS LONG BEEN UNDERSTOOD TO INCLUDE A "RIGHT TO THE EFFECTIVE ASSISTANCE OF COUNSEL."

STRICTLAND V. WASHINGTON, SUPRA 466 U.S. (1984)

"THAT A PERSON WHO HAPPENS TO BE A LAWYER IS PRESENT AT TRIAL ALONGSIDE THE ACCUSED, HOWEVER IS NOT ENOUGH TO SATISFY THE CONSTITUTIONAL COMMAND."



## MEMORANDUM 2

IN SUPPORT OF GROUND 2: MEDICATION INDUCED  
DIMINISHED MENTAL CAPACITY.

### CASE LAW

WEST LAW NO. 625-10(1) TEX 3D, CRIMINAL LAW  
DEFENSES 63

"AN EXPERT APPOINTED TO EXAMINE A DEFENDANT  
FOR COMPETENCY IS EXPRESSLY DIRECTED DIRECTLY BY THE  
COURT TO CONSIDER & ADDRESS IN THEIR REPORT WHETHER  
THE DEFENDANT IS TAKING "PSYCHOACTIVE OR OTHER  
MEDICATION" & IF SO:

A.) WHETHER THE MEDICATION IS ~~NECESSARY~~ NECESSARY  
TO MAINTAIN THE DEFENDANT'S COMPETENCY, &

B.) THE EFFECT, IF ANY, OF THE MEDICATION ON THE  
DEFENDANT'S APPEARANCE, DEMEANOR, OR ABILITY TO  
PARTICIPATE IN THE PROCEEDINGS.

THIS MAKES CLEAR - ALTHOUGH INDIRECTLY - SEVERAL  
SUBSTANTIVE THINGS:

FIRST THE LEGISLATURE HAS CLEARLY REJECTED  
THE POSITION THAT A DEFENDANT WHO MEETS THE  
STATUTORY CRITERIA FOR COMPETENCY

BUT ONLY BECAUSE THAT DEFENDANT IS STABILIZED  
ON PSYCHOACTIVE MEDICATION IS INCOMPETENT.

## MEMORANDUM 2

### CONTINUED

SECOND, THE EFFECT OF THE MEDICATION ITSELF MAY AFFECT COMPETENCY, IF, FOR EXAMPLE, MEDICATION HAS A SEDATION EFFECT THAT MAY ARTIFICIALLY MASK A TESTIFYING DEFENDANT'S CREDIBILITY THAT ITSELF IS AT LEAST A FACTOR RELEVANT TO WHETHER THE DEFENDANT IS COMPETENT.

WEST LAW 62J.30 TEX. 30. CRIMINAL 63

GIVEN THE NATURE OF THE ISSUE IN ANY INQUIRY INTO A CRIMINAL DEFENDANT'S COMPETENCY THE TESTIMONY OF THE DEFENSE COUNSEL WILL OFTEN BE OF AT LEAST POTENTIAL SIGNIFICANCE. DEFENDANTS SEEKING TO ESTABLISH THEIR INCOMPETENCY OFTEN RELY UPON DEFENSE COUNSEL'S TESTIMONY THAT THEY ARE UNABLE TO SUFFICIENTLY UNDERSTAND THE PROCEEDINGS OR CONSULT WITH DEFENSE COUNSEL.

### CONCLUSION

MY ATTORNEY FAILED TO BRING MY RECENT DIAGNOSIS TO THE COURT'S ATTENTION NOR MY MEDICATIONS THAT I WAS AT THE TIME RECENTLY PRESCRIBED & WAS BEING GIVEN TO LARGE OF A DOSE SO THAT MY JUDGMENT WAS IMPAIRED ON THE DAY OF COURT. I PRAY THE COURT TO FIND IN MY FAVOR & GRANT ME RELIEF FROM THIS SENTENCE.

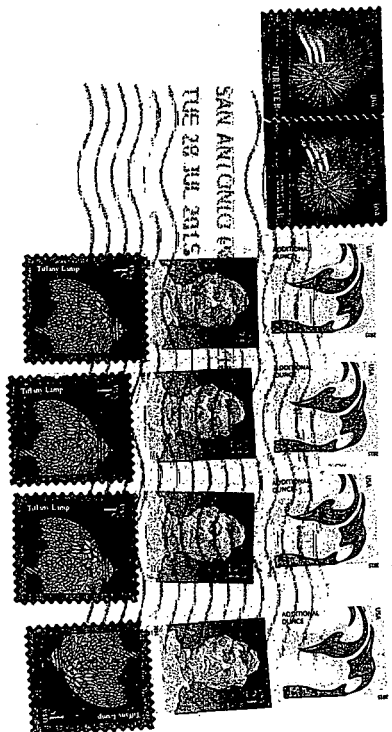
DANIEL JAMES WEBBMS 2003847  
 C/O GARZA WEST UNIT  
 4250 HWY 202  
 BEAVERVILLE, TX 78102



*STG*

DISTRICT CLERKS OFFICE  
 CRIMINAL SECTION  
 101 WEST NUEVA STE. 217  
 SAN ANTONIO TX 78205  
 ATTN: 2210 DISTRICT COURT

*2020-06-10*



2.100

ALFRED  
 O'CLARK

AUG 10 2015  
 DONNA KAY  
 District Clerk, District Court  
 5th Floor

Defendant: BENJAMIN ERICKSON  
JN #: 1673940-1  
CLERK'S ORIGINAL



Address: 770 KIRK PL, SAN ANTONIO, TX 78226-1408

Complainant: BRANDON ERICKSON

CoDefendants:

Offense Code/Charge: 130116 - AGG ASSLT W/DEADLY WPN

GJ: 605709

PH Court: 379

Court #: 379

SID #:927485

Cause #:

Witness: State's Attorney

<b>FILED</b>
O'CLOCK _____ M
<b>APR - 1 2015</b>
DONNA KAY MCKINNEY DISTRICT CLERK BEXAR COUNTY, TEXAS
BY <i>[Signature]</i> DEPUTY

**2015-CR - 3807**

TRUE BILL OF INDICTMENT

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS, the Grand Jury of Bexar County, State of Texas, duly organized, empanelled and sworn as such at the March term, A.D., 2015, of the 227 Judicial District Court of said County, in said Court, at said term, do present in and to said Court that in the County and State aforesaid, and anterior to the presentment of this indictment:

on or about the 30th Day of January, 2015, BENJAMIN ERICKSON, hereinafter referred to as defendant, did use and exhibit a deadly weapon, NAMELY: A MOTOR VEHICLE, THAT IN THE MANNER OF ITS USE AND INTENDED USE WAS CAPABLE OF CAUSING DEATH AND SERIOUS BODILY INJURY, and defendant did intentionally, knowingly and recklessly THREATEN IMMINENT BODILY INJURY to E [REDACTED] E [REDACTED] hereinafter referred to as complainant, by DRIVING SAID DEADLY WEAPON AT AND IN THE DIRECTION OF THE COMPLAINANT;

AGAINST THE PEACE AND DIGNITY OF THE STATE.

*[Signature]*  
Foreman of the Grand Jury

04012015 V1300P3291

INDICTMENT - CLERK'S ORIGINAL

# CRIMINAL DOCKET SHEET

FINGERPRINT 2015-CR-3807 STATE OF TEXAS VS. ERICKSON, BENJAMIN AGG ASSLT W/DEADLY WPN CM007799		NAME OF PARTIES D379 04/01/2015 SCC: 701		ATTORNEYS JULIA HICKMAN JULIA HICKMAN		COURT REPORTER		COURT ACTIVITY	
THUMBPRINT		OFFENSE INFORMATION REDUCED TO LESSER OFFENSE: STATE PROCEEDS ON COUNT (s) PARAGRAPH ENHANCEMENT PARAGRAPH (s)		COURT REPORTER		COURT INTERPRETER		JUDGE PRESIDING NO RECOMMENDATION/ NO PLEA BARGAIN PLEA BARGAIN AGREEMENT YRS MDS DYS (TDCJ - ID)(BCADC)(STATE JAIL) \$ Fine \$ Restitution Comm Supervision (Recommended)(Silent)(Opposed) Def Adjudication (Recommended)(Silent)(Opposed) Cases to Run Concurrent/Consecutively Cases Taken into Consideration: Non Binding Recommendations DYS MOS(BCADC)(STATE JAIL)(Cond of Suprvsn) HRS Community Service/ DYS ELM Substance Abuse Treatment Facility YRS MDS DYS (TDCJ-ID)(BCADC)(ST JAIL) \$ Fine \$ Restitution Other:	
DATE OF ENTRY 04/15		COURT ENTRIES NO Arraigned, pleads "N/C" Evidence sufficient. Finding of "guilt" / No other findings. PSI waived by both parties. Judge Ron Rangel 379th District Court 6 TDC + AFFDW/36 + CFB + cc w/ 2015-CR-3805 + NC 2015-CR-3806 + NO HIC w/ Eliza Erickson / B E / C E							
		COURT RULING YRS MOS DYS (TDCJ - (BCADC)(ST JAIL) \$ Fine \$ Restitution Payable to: Affirmative Finding of a Deadly Weapon S.A.I.P. (Booi Camp) Shock Supervision Drivers License Suspension Start Date: End Date: SAFPF (Comm Supervision)(Amended Comm Supv.) Therapeutic Community Program HRS Community Service DYS ELM DYS MOS (BCADC)(STATE JAIL)(Cond of Suprvsn) (Work)(Weekend) Release Program (Cond of Supervsn) Found TRUE to Enhancement Paragraphs as a Repeater Found TRUE to Enhancement Paragraphs as a Habitual Other:							
		DONNA KAY MCKINNEY BEXAR COUNTY DISTRICT CLERK By: DEPUTY							



No. 2015CR3807

THE STATE OF TEXAS

§

IN THE DISTRICT COURT

V.



379TH JUDICIAL DISTRICT

BENJAMIN ERICKSON

§

BEXAR COUNTY, TEXAS

COURT'S ADMONISHMENT AND  
DEFENDANT'S WAIVERS AND AFFIDAVIT OF ADMONITIONS

COURT'S ADMONISHMENTS:

OFFENSE:  
**AGG ASSLT W/DEADLY WPN**  
DEGREE: F2  
STATUTE: 22.02 (A) (2) PC  
(Repeater) (Habitual)

**FILED**  
\_\_\_\_ O'CLOCK \_\_\_\_ M

JUN 04 2015

DO NOTAL HAS ABERNETHY  
District Clerk, Bexar County, Texas  
BY: *[Signature]* DEPUTY

You are admonished that if convicted of a Felony the following applies:

1. RANGE OF PUNISHMENT

All time is served in Texas Department of Criminal Justice.

\_\_\_\_ 5 years to 99 years or Life: Possible fine up to \$10,000

**XXX** 2 years to 20 years: Possible fine up to \$10,000

\_\_\_\_ 2 years to 10 years: Possible fine up to \$10,000 if the offense  
occurred on or after September 1, 1994

\_\_\_\_ 2 years to 10 years: Possible fine up to \$10,000 or up to 1 year in  
a Community Correction facility (for offenses committed after  
August 31, 1989 but before September 1, 1994)

\_\_\_\_ 25 years to 99 years or Life

\_\_\_\_ Other \_\_\_\_\_

2. PLEA BARGAINING

A recommendation of the prosecuting attorney as to punishment is not binding on the Court. The Court may accept or reject any plea bargaining agreement made between the State and the Defendant. If the Court rejects the plea agreement, the Defendant shall be permitted to withdraw the plea of guilty/nolo contendere and no statement or other evidence received during such hearing on the plea of guilty/nolo contendere may be admitted against the Defendant on the issue of guilt or punishment in any subsequent criminal proceeding.

06082015 VI309P3155

If the punishment assessed does not exceed the punishment recommended by the prosecuting attorney (plea bargain), the trial court must give its permission to appeal any matter in the case except for those matters raised by written motion filed prior to trial and ruled upon by the Court. If a plea bargain is followed, this Court will not give permission to appeal.

### 3. TRIAL RIGHTS

You have a right to trial by jury, cross examination of witnesses and the right to remain silent.

### 4. CITIZENSHIP

If you are not a U.S. citizen, a plea of guilty or nolo contendere may result in deportation, exclusion from admission to this country or denial of naturalization under federal law. I have been explained these immigration consequences by my attorney.

### 5. DEFERRED ADJUDICATION

If the Court defers adjudicating your guilt and places you under community supervision, on violation of any condition you may be arrested and detained as provided by law. You are then entitled to a hearing limited to a determination by the Court of whether to proceed with an adjudication of guilt on the original charge. If, at such hearing, the Court makes the determination to proceed with an adjudication of guilt on the original charge, you may appeal such determination. After adjudication of guilt, all proceedings including the assessment of punishment and your right to appeal continue as if adjudication of guilt had not been deferred. The Court is also able to assess the full range of punishment.

You are hereby informed that, upon successful completion of deferred adjudication, you have a right to petition the court for an order of nondisclosure under Section 411.081, Government Code, unless you are ineligible because of the nature of the offense for which you are being placed on deferred adjudication or your criminal history.

### 6. SEX OFFENDER REGISTRATION PROGRAM

A plea of GUILTY or NOLO CONTENDERE that results in a conviction or placement on deferred adjudication for an offense under Chapter 62 of the Texas Code of Criminal Procedure will require you to register as a sex offender with local law enforcement officials as required by Chapter 62. You will also be required to report regularly and to obtain or maintain a Texas driver's license or certificate of identification identifying you as a sex offender. Violation of the registration and/or reporting requirements will subject you to additional criminal charges.


### DEFENDANT'S WAIVERS AND AFFIDAVIT OF ADMONITIONS

TO THE HONORABLE JUDGE OF SAID COURT:

I, BENJAMIN ERICKSON, the Defendant in this cause, having this day appeared in open court with my counsel and having been duly sworn, represent to the Court that I have received a copy of the indictment or information in this cause, that I fully understand its contents; that I know that I am charged with the felony offense of **AGG ASSLT W/DEADLY WPN** and that I waive formal arraignment and the reading of the charging instrument.

I, the Defendant, hereby enter a plea of GUILTY/NOLO CONTENDERE to this charge.

1. I have had my Constitutional and legal rights explained to me by my attorney, and have decided to waive my Constitutional right of trial by jury and enter this plea before the judge. I hereby request the consent and approval of the State's Attorney and of the Court to my waiver of trial by jury. I further represent to the Court as follows:
2. I am mentally competent now and was legally sane at the time that this offense was committed.
3. I have not been threatened, coerced or placed in fear by any person to induce me to enter my plea.
4. If I have a plea bargain agreement with the prosecutor, its terms are fully set forth in the attached document. I have received no promise from the prosecutor, my attorney or the Court which are not set forth in that document, and I realize that no one else would be empowered to make me any promises.
5. If I am pleading GUILTY, it is because I am guilty, and for no other reason. If my plea is one of NOLO CONTENDERE, it is because I have considered all aspects of my legal situation and discussed them with my attorney and have determined that the entry of such plea is in my own best interest.
6. If applicable, my attorney has explained to me the requirements and consequences of Chapter 62 of the Texas Code of Criminal Procedure Sex Offender Registration Program.
7. I understand the Courts admonishments as contained in this waiver.
8. I am satisfied with the advice and representation of my attorney in this case.
9. I have been explained my immigration consequences by my attorney.

  
BENJAMIN ERICKSON  
Defendant

SWORN TO AND SUBSCRIBED TO ME THIS \_\_\_\_ day of JUN 04 2015, 2015.



  
Deputy District Clerk

06082015 VI309P3157

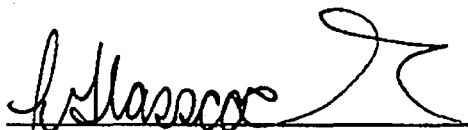


I have counseled with the Defendant in this cause and have concluded that the Defendant has a rational, as well as a factual understanding of both the charge(s) pending and this proceeding. I have explained the law regarding all waivers set forth in this document and am satisfied that in each instance the defendant has voluntarily relinquished a known right. I join in the Defendant's waiver of the right of trial by jury. If applicable, I have explained to my client the requirements and consequences of Chapter 62 of the Texas Code of Criminal Procedure Sex Offender Registration Program.



MARK JOHN MCKAY  
Attorney for Defendant

I consent to and approve the jury waiver in this case.



Assistant Criminal District Attorney

I approve the jury waiver and ORDER it filed in the papers of the cause. It plainly appearing that the Defendant is mentally competent; that his waivers have been entered voluntarily, in full knowledge of his rights; that the admonishments of the Court have been understood by the Defendant; that the Defendant's plea has not been induced by improper persuasion; and that the Defendant persists in his plea. The Defendant's plea is now accepted by the Court and the balance of this document is likewise ORDERED filed among the papers of the cause.

SIGNED and ENTERED this \_\_\_\_\_ day of JUN 04 2015, 2015.



Judge Presiding  
379th Judicial District

## PLEA BARGAIN

I, the undersigned Defendant, together with my counsel and counsel for the State, agree that in exchange for the Defendant's agreement to plead guilty or nolo contendere, to allow the State to prove its case by means of written stipulations. The State may make recommendations regarding punishment; however, it is understood by all that even in the event the parties agree to recommend specific conditions and terms of community supervision or deferred adjudication or the length of supervision that such recommendations are not part of the formal plea agreement and are not binding on the Court. All parties understand and agree that the terms, conditions and length of supervision of community supervision or deferred adjudication are to be determined and assessed solely within the Court's discretion. It is further understood and agreed by the parties that in the event the Court assessed terms, conditions and or a length of supervision of community supervision or deferred adjudication different from those agreed to by the parties, that such difference shall not constitute grounds for setting aside the Defendant's plea in this cause. If the court grants deferred adjudication, the State does not recommend any term of years as part of the plea agreement. All parties agree that if deferred adjudication is subsequently revoked, Defendant may be sentenced to any term of years within the range of punishment provided by law for this offense.

It is mutually agreed and recommended by the parties:

\_\_\_\_ Prosecution to proceed only on Count(s) \_\_\_\_\_ Prosecution for lesser included offense of \_\_\_\_\_  
 \_\_\_\_ Defendant agrees that he has been previously convicted of one/two or more felonies for enhancement under 12.42 P.C.  
 \_\_\_\_ Class A Misdemeanor punishment with State jail Felony Conviction under 12.44 P.C.  
 XXX Punishment to be assessed at 6 (SIX) years  
 \_\_\_\_ Fine \$ \_\_\_\_\_  
 XXX Affirmative Finding of Deadly Weapon or 3G offense, Defendant not eligible for supervision under CCP42.12, Sec. 3  
 XXX There is no application for community supervision/deferred adjudication.  
 \_\_\_\_ State will make no recommendation of Defendant's deferred adjudication/community supervision application. State reserves right to speak as to factual issues relevant to Defendant's punishment.  
 \_\_\_\_ State opposes community supervision/deferred adjudication.  
 \_\_\_\_ State recommends community supervision.  
 \_\_\_\_ State recommends deferred adjudication.  
 XXX Concurrent with: 2015CR3805  
 XXX Causes taken into consideration: 2015CR3806  
 \_\_\_\_ Restitution to be determined by the Court through the Community Supervision office or \$ \_\_\_\_\_  
 \_\_\_\_ Payable to victim in this cause number only: \_\_\_\_\_  
 \_\_\_\_ Payable to victims under: \_\_\_\_\_  
 XXX Other: NO CONTACT WITH ELISA ERICKSON, E \_\_\_\_\_, E \_\_\_\_\_, AND C \_\_\_\_\_

*harmful or injurious*

## WAIVER OF APPEAL

I understand that upon my plea of guilty or nolo contendere, where the punishment does not exceed that recommended by the prosecutor and agreed to by me, my right to appeal will be limited to only: (1) those matters that were raised by written motion filed and ruled on before trial, or (2) other matters on which the trial court gives me permission to appeal. I understand that I have this limited right to appeal. However, as part of my plea bargain agreement in this case, I knowingly and voluntarily waive my right to appeal under (1) and (2) in exchange for the prosecutor's recommendation, provided that the punishment assessed by the court does not exceed our agreement. In addition, if and when I am sentenced to the Texas Department of Criminal Justice on this case, I hereby request transfer to said institution.

*Benjamin Erickson*  
 DEFENDANT

*6/4/15*  
 DATE

*[Signature]*  
 COUNSEL FOR DEFENDANT

The above terms constitute our agreement, and there are no agreements not set forth above. The Defendant and Counsel request the Court to follow the plea bargain.

*[Signature]*  
 ASSISTANT DISTRICT ATTORNEY

*[Signature]*  
 ATTORNEY FOR DEFENDANT

*Benjamin Erickson*  
 DEFENDANT

NOTE: The parties are not allowed to make binding agreements regarding the length of community supervision or the terms and conditions of community supervision, which are totally dependent upon the Court's discretion. The following recommendations do not constitute part of the formal plea agreement. However, the (State) (both parties) make the following non-binding recommendations:

\_\_\_\_ Community Supervision be granted for \_\_\_\_\_ years  
 \_\_\_\_ Treatment Alternative to Incarceration Program \_\_\_\_\_ Days in Bexar County Jail or State Jail (circle one)  
 \_\_\_\_ Hours Community Service \_\_\_\_\_ Substance abuse treatment facility  
 \_\_\_\_ Days Electronic Monitoring \_\_\_\_\_ Zero Tolerance Bootcamp or State Bootcamp Program (circle one)  
 \_\_\_\_ No contact with \_\_\_\_\_  
 Other Punishment recommendations: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

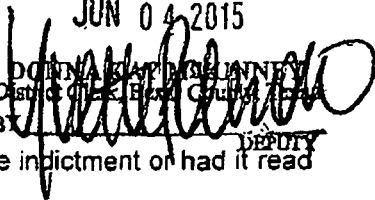
06082015 V1309P3159



NO. 2015CR3807

THE STATE OF TEXAS	§	IN THE DISTRICT COURT
V.	§	379TH JUDICIAL DISTRICT
		<b>FILED</b>
BENJAMIN ERICKSON	§	BEXAR COUNTY TEXAS M

WAIVER, CONSENT TO STIPULATION  
OF TESTIMONY AND STIPULATIONS

JUN 04 2015  
DORNA KATIE BRANNEN  
District Clerk Bexar County, Texas  
BY  DEPUTY

The Defendant in this cause, being sworn and having read the indictment or had it read to him, advises the Court that he fully understands the charge which is pending against him, and Counsel for the Defendant has explained the Federal and State Constitutional and legal rights possessed by a criminal defendant, including the procedural rights and safeguards afforded by the laws of the State of Texas.

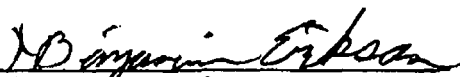
In particular, Counsel has explained and the Defendant understands the privilege against self-incrimination and the confrontation and cross-examination of the witnesses.

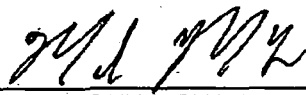
Understanding all these rights, the Defendant knowingly and voluntarily agrees to waive each such right and consents to waive the appearance, confrontation and cross-examination of witnesses against the Defendant, including all statements and information contained within the pre-sentence investigation report; further, the Defendant and his Counsel agree with the Attorney for the State to the introduction of evidence on behalf of the State by affidavits, written statements of witnesses, police reports, laboratory reports and any other documentary evidence which is attached, marked Exhibit Nos. SX1 inclusive, all of which are by this reference made a part of this document. The Defendant, his Counsel and the State's Attorney agree that this evidence is true and correct, that the Defendant is the person referred to by the witness in the attached documents, that if the witnesses testified they would identify the Defendant as the person of whom they speak, and that this document and its attachments may be considered as a part of the Statement of Facts in this case.

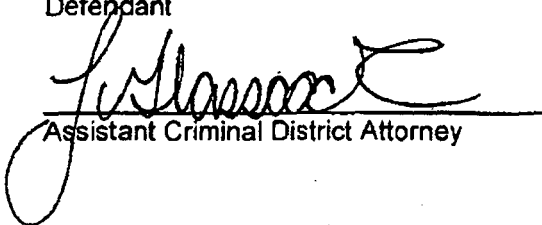
SX1

I, BENJAMIN ERICKSON, do hereby judicially confess and admit, that I intentionally and knowingly, in Bexar County, Texas, on or about the 30th Day of January, 2015, BENJAMIN ERICKSON, hereinafter referred to as defendant, did use and exhibit a deadly weapon, NAMELY: A MOTOR VEHICLE, THAT IN THE MANNER OF ITS USE AND INTENDED USE WAS CAPABLE OF CAUSING DEATH AND SERIOUS BODILY INJURY, and defendant did intentionally, knowingly and recklessly THREATEN IMMINENT BODILY INJURY to E [REDACTED] hereinafter referred to as complainant, by DRIVING SAID DEADLY WEAPON AT AND IN THE DIRECTION OF THE COMPLAINANT;

The Defendant and his Counsel further agree with the State's Attorney that the Defendant is the person named in the indictment AND, that all of the acts alleged therein occurred in Bexar County, Texas, and that the allegations are true and correct.

  
BENJAMIN ERICKSON  
Defendant

  
MARK JOHN MCKAY  
Attorney for Defendant

  
Assistant Criminal District Attorney

BENJAMIN ERICKSON, known to me to be the Defendant in the above styled and numbered cause, who, being by me duly sworn, acknowledged that he read or had read to him the foregoing waiver, consent to stipulation of testimony and stipulations, that he fully understands the document, that the recitations of fact in the document are true and correct, that the signature which follows is the Defendant's signature, and that the signature was voluntarily given.

OATH

I hereby solemnly swear or affirm that I shall tell the truth the whole truth and nothing but the truth in response to all questions propounded to me by the Court or attorneys representing the State and defense during proceedings in this cause, so help me God.

  
BENJAMIN ERICKSON  
Defendant

SWORN TO BEFORE ME THIS \_\_\_\_\_ DAY OF JUN 04 2015, 2015.

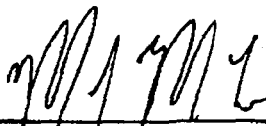
DONNA KAY McKINNEY  
CLERK OF THE DISTRICT COURTS  
OF BEXAR COUNTY



BY:   
DEPUTY DISTRICT CLERK

## CERTIFICATE OF DEFENSE COUNSEL

I am a duly licensed member of the State Bar of Texas. I certify that I have fully explained the rights secured to a Defendant by the Federal and State Constitutions, including the right to be free from self-incrimination, the right to compulsory process, and the rights of confrontation and cross-examination of witnesses. Further, I have discussed the procedural rights and safeguards afforded a criminal defendant by the laws of the State of Texas. Additionally, I have read this Waiver, Consent to Stipulation of Testimony and Stipulations and the attached exhibits and gone over them carefully with the Defendant. It appears to me that the Defendant fully understands these rights and has intelligently and voluntarily waived these rights and entered into these agreements after due deliberation, and so his waivers and agreements are entered into with my advice and consent.

  
 \_\_\_\_\_  
 MARK JOHN MCKAY  
 Attorney for Defendant

## APPROVAL OF TRIAL JUDGE

The Defendant having signed the Waiver, Consent to Stipulation of Testimony and Stipulations in open Court and under oath, the Court questioned both the Defendant and his Counsel and thereby became satisfied that the Defendant understands the rights which have been waived and therefore can be truly said to have voluntarily relinquished known rights. The Waiver, Consent to Stipulation of Testimony and Stipulations are approved and ORDERED filed in the papers of the cause.

JUN 04 2015

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

  
 \_\_\_\_\_  
 Judge Presiding  
 379th Judicial District Court

<b>CHARGE AND DISPOSITION REPORT</b> (CONFIDENTIAL INFORMATION)		<b>BEXAR COUNTY SHERIFF'S OFFICE</b>		ASSIGNMENT NO. 2015-004148	
3. LAST NAME OF DEFENDANT - FIRST-MIDDLE ERICKSON, BENJAMIN	4. RACE-SEX-AGE W - M - 41 YRS	DATE OF BIRTH 03-01-74	4. S.I.D. 927485	5. ADDRESS OF DEFENDANT 770 KIRK SAN ANTONIO, TEXAS 78226	6. B.C.S.O.
7. CHARGE AGG ASSAULT/DEADLY WEAPON	OFF/BKG CODE 130116	8. ARRESTED BY J. GARCIA #3052		9. DETECTIVE A. LOPEZ #1624	
10. COMPLAINANT'S NAME ELISA ERICKSON	11. ADDRESS OF COMPLAINANT 7219 ARCHERS GROVE SAN ANTONIO, TEXAS 78244		12. COMPLAINANT'S PHONE NUMBER 210-238-8163	13. PROPERTY TAG # / S	
14. WITNESS	15. ADDRESS OF WITNESS		16. WITNESS' PHONE NUMBER		
17. TYPE AND NUMBER OF REPORTS SUBMITTED TO DISTRICT ATTORNEY					
<b>SEE TABLE OF CONTENTS</b>					
18. DETECTIVE MAKING REPORT-BADGE NO. A. LOPEZ #1624		19. TIME AND DATE OF THIS REPORT 10:00 AM 3-30-15 MAR 30 2015		20. APPROVING AUTHORITY SGT. R. MILAM #460	21. UNIT ASSIGNED VIOLENT CRIMES
22. RECEIVED BY D.A. OFFICE		23. TIME AND DATE RECEIVED		24. D.A. CASE NO.-REMARKS	
DISTRICT ATTORNEY TO COMPLETE THE FOLLOWING AND RETURN TO SHERIFF'S OFFICE * (SEE BELOW)					
25. MISDEMEANOR <input type="checkbox"/>	27. GRAND JURY NO.	28. DISTRICT CT. NO.	29. COUNTY CT. NO.	30. BILLED <input type="checkbox"/>	NO-BILLED <input type="checkbox"/>
26. FELONY <input type="checkbox"/>				31. CHARGED <input type="checkbox"/>	NO-CHARGES <input type="checkbox"/>
32. NOT GUILTY <input type="checkbox"/>	DISMISSED <input type="checkbox"/>	33. FINED (AMOUNT)	34. SENTENCED (TERM AND LOCATION)		
32. GUILTY <input type="checkbox"/>					
35. DISTRICT ATTORNEY MAKING REPORT		36. TIME AND DATE OF THIS REPORT		37. REMARKS	
TO:		RETURN:			

**DA SCANNED**

MAR 31 2015

FJ #2

Bexar County Sheriff's Office  
Susan Pamerleau, Sheriff  
Criminal Investigation Division

**CRIMINAL CASE DOCUMENTS ENCLOSED**

OFFENSE: AGGRAVATED ASSAULT/DEADLY WEAPON  
BCSO CASE: 2015-004148

1. Charge and Disposition
2. Table of Contents
3. BCSO Cover Sheet
4. Detective's Summary
5. Dispatch Key Card
6. BCSO Offense Report
7. Complainant's Statement Information Supplement
8. Affidavit For Arrest Warrant
9. Supplementary Report of Detective A. Menchaca #4015
10. Magistrate's Order For Emergency Protection
11. All Defendant's Master Name File Database Information
12. All Defendant's Criminal History
13. (1) DVD of Complainant's Video Statement
14. (1) DVD of Photographs of Complainant's Vehicle and Defendant's Vehicle

Detective Submitting Case: A. Lopez #1624



*Bexar County Sheriff's Office*

*Susan Pamerleau, Sheriff*

*Criminal Investigations Division*



**DETECTIVE A. LOPEZ #1624**

**AGGRAVATED ASSAULT/DEADLY WEAPON**

**CASE NUMBER 2015-004148**

SUPPLEMENTARY REPORT  
Criminal Investigations Division

Assignment No: 2015-004148

Offense Code: 130116

Reporting Investigator (Name & ID): A. Lopez #1624

Offense / Incident Agg Assault/Deadly Weapon	Section Assigned VIOLENT CRIMES	District 40
Place of Occurrence - Address, Block or Intersection Walzem and FM 78	Date & Time of Offense / Incident 1-30-15 1930	Date of this Report 2-3-15
Complainant - Last, First M Erickson, Elisa	Address (Include City, State and Zip) 7219 Archers Grove San Antonio, Texas 78244	
DL / ID / SSN - Number, state [REDACTED]	Date of Birth 10-8-73	Home Phone (Include area) 210-818-0712
Case Status Investigative Supplement	Work/Other (include area)	
Modus Operandi (MO)		

Additional Details of Offense - Progress of Investigation - Disposition of Evidence, Property, etc.

Complainant:

Elisa Erickson  
7219 Archers Grove  
San Antonio, Texas 78244  
(210) 238-8163

Reporting Officer:

Deputy L. Brumit #1058  
Bexar County Sheriff's Office  
200 N Comal  
San Antonio, Texas 78207  
210-335-6000  
PATROL DIVISION

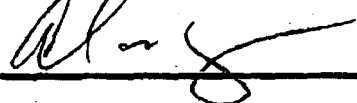
Detective Assigned:

A. Lopez #1624  
Bexar County Sheriff's Office  
200 N Comal  
San Antonio, Texas  
210-335-6076  
[alice.lopez@bexar.org](mailto:alice.lopez@bexar.org)  
VIOLENT CRIMES

Defendant:

Benjamin Erickson  
W-M.08-01-74  
770 Kirk Place  
San Antonio, Texas 78226  
SID# 927485  
BCSO# 0463488 FBI# 454659WA9

Submitting Investigator's Signature



BEXAR COUNTY SHERIFF'S OFFICE  
200 North Comal  
San Antonio, Texas 78207-3505

Page 1 of 4

FORM 350-250 (09/2004)

## SUMMARY

On January 30<sup>th</sup>, 2015, Deputy L. Brumit #1058 was dispatched to a disturbance at Jack in the Box which is located at 7720 FM 78. Deputy Brumit made contact with Elisa Erickson; hereinafter to be referred to as the **complainant**. Deputy Brumit states the complainant was extremely upset, shaking and crying. The complainant explained she got into an argument with her ex-husband Benjamin Erickson; hereinafter to be referred to as the **defendant** at her residence. The complainant said she the defendant wanted to go to the store with her and their two small children. The complainant told the defendant she did not want to go to the store with him because he was highly intoxicated. The defendant became very upset and the complainant left her residence with her two small children who were seated in the back seat of her vehicle a 2006 Mercedes Benz bearing TXLP: CLD2088. The complainant said the defendant then got into his vehicle a 1998 Ford F-150 bearing TXLP: DPS0453 and followed the complainant to Walzem Rd.

The complainant explained the defendant attempted to ram her vehicle several times from behind. The defendant was unsuccessful at first because the complainant kept speeding up to attempt to get away from the defendant. The complainant was in the left lane on Walzem Rd. going toward FM 78 when the defendant pulled up alongside of her moving vehicle (on the right) and the defendant rammed his vehicle into the complainants making contact with the right passenger's side rear. The complainant said the defendant attempted several more times to intentionally swerve into her vehicle while moving. The complainant believes that the defendant was attempting to force her into oncoming traffic and she was in fear for her life and the lives of her two children that were seated in the back seat of her vehicle. The complainant refused medical treatment and Deputy Brumit notified me of the situation.

I arrived at the Jack in the Box and made contact with the complainant and her two children. I spoke with her briefly and she explained that she was in fear of the defendant. The complainant repeatedly asked me if we're going to find the defendant and arrest him. The complainant stated

she does not know what to do because the defendant is aware that she called the police and he is going to be more upset with her. This is not the first time the defendant has assaulted her and got away. The complainant fears he will come back to her house later in the night and assault her.

We relocated back to C.I.D. which is located at 200 N. Comal and it was now midnight with the date of January 31, 2015. I took a video statement of the complainant and the statement the complainant gave Deputy Brumit was consistent to the formal statement she gave me. The complainant did add that she is legally divorced from the defendant because she was a victim of domestic violence which usually occurred when the defendant was intoxicated. The complainant still communicates with the defendant because of their children. When she no longer wanted to go to the store with him today he began yelling and accused her of cheating as her two children sat in the back seat of her vehicle. At this point the complainant knew she had to leave because the defendant would assault her like he has in the past.

As she pulled out of her drive way, she motioned to the defendant that she was calling the police by holding her cell phone up towards her driver side window to let him know she was calling the police. This did not stop the defendant from following her in and out of traffic with his vehicle. The complainant did not know if the defendant wanted to stop her or have her vehicle swerve into oncoming traffic. The complainant said the defendant did ram his vehicle into hers several times about a half of mile before she got to the intersection of Walzem Rd and FM 78. This is where she noticed a marked Bexar County patrol vehicle at the intersection of Walzem Rd and FM 78. The complainant immediately began honking her horn to get the attention of the Deputy or anyone else who could help her. The complainant thinks the defendant also saw the marked Bexar County patrol unit and this scared the defendant into leaving the area. The complainant said she pulled into the Jack in the Box parking lot and waited a few minutes because she was "shaken" and her knees were "jelly" because she really thought she was going to have an accident. Then she called the police for assistance.

The complainant did sign a Declaration of Complainant wanting to pursue charges against the defendant. I typed an Affidavit of Arrest for Aggravated Assault/Deadly Weapon against the defendant which was signed by Judge Lori Crockett. This same day the defendant was arrested and his vehicle was towed to C.I.D. for processing. Detective A. Menchaca #4016 filed an emergency protective order on behalf of the complainant and her two children. Crime Scene Deputy C. Anderson #4142 took photographs of the complainant's vehicle and defendant's vehicle.

This case will be filed for with the District Attorney's Office for review.

## Bexar County Sheriff's Office

OFFENSE REPORT (BCSO Form No 159)

PC

C

TRC

(1) Weather Conditions at Time of Off

PC: 22.02, 22.041

Warm ☒ Cool ☒ Dry ☒ Wet ☐ Unknown ☐

(2) Case Number

2015-BCSO-004148

(3) Offense/Event AGGRAVATED ASSAULT  
AND ENDANGERING A CHILD

(4) Location of Offense (Number, Street, Apt., Number)

WALZEM AND FM 78

(5) District

A40

(6) Dates of Occurrence (MM/DD/YY)

01/30/2015

(7) Hours of Occurrence

1958

(8) Reporting Officer (Name/Badge)

BRUMIT, L #1058

Signature

Reporting Date

01/30/2015

(9) Firm Name

Address

Phone

(10) Approving Authority (Name, Badge, Date)

(11) Code

C - Complainant

R - Reporting Person

M - Manager/Owner

W - Witness

O - Guardian/Parent

O - Other

D - Day

N - Night

B - Both

Code

Name (Last, First, MI)

Title

Race - Sex - DOB

Best Address

Phone

C

ERICKSON, ELISA

EX-WIFE OF SP

W/F 10/08/73

Res. 7219 ARCHERS GROVE 210-818-0712

D

Bus.

O1

SGT. GONZALES #250

Res.

Bus. 200 N COMAL

210-335-6000

B

O2

DETECTIVE LOPEZ #1624

Res.

Bus. 200 N COMAL

210-335-6000

B

O3

JUVENILE SEE YELLOW

Res.

Bus.

O4

JUVENILE SEE YELLOW

Res.

Bus.

INJ.  
PER.

(12) Victim Taken to

(13) Transported By

(14) Describe Injuries

(15) Condition

Property Section

CODES

S - Stolen

D - Damaged

L - Lost

F - Found

R - Recovered

E - Evidence

Code

Description (Brand/Make)

Article

Model/Caliber/color

Serial Number

OAN Number

Estimated Value

(16) Property Tag Number

(17) Property Receipt Made

☐ Yes ☒ No

(18) Photograph Taken

☐ Yes ☒ No

(19) OAN applied is (TYPE)

DL SSN DOB OTHER

(20) Total Stolen Value

(21) Size of Property Taken Was (Circle One)

Concealable

Hand Carried

Needed Assistance

(22) Obvious Property Not Taken

Personal Accessories

Jewelry

Money

Furs

Guns

Radio/TV/Stereo

Other

(23)

☐ Stolen  
☐ Crim. Misch.  
☐ Burg Vehicle  
☐ Unauth. Use  
☐ Access. Theft  
☐ Theft-LP

License Number

CLD2088

State /YR/Type

TX/15/PS

Year

2006

Make

MERC

Model

ML350

Style

SUV

VIN

4JGBB86E06A020560

Bicycle Serial Number

Make

Model

Type Frame

Type Brake

Wheel Size

Speed

Vehicle / Bicycle Information

(24) Color 1 (Solid or Top) 1 Color 2

(25) Special Vehicle Features (Circle Number Below)

1. BEIGE 7. BROWN 13. GREEN 19. SILVER  
2. BLACK 8. COPPER 14. GREEN/DARK 20. TAN  
3. BLUE/LIGHT 9. CREAM 15. MAROON 21. TURQUOISE  
4. BLUE 10. GOLD 16. ORANGE 22. WHITE  
5. BLUE/DARK 11. GRAY 17. PINK 23. YELLOW  
6. BRONZE 12. GREEN/LIGHT 18. RED 24. OTHER1. LEVEL ALTERED 5. WINDOW BROKEN 11. DAMAGE TO SIDE  
2. STICKER/DECAL 6. DECORATIVE PAINT 12. PAINTED INSCRIPTION  
3. STICKER/DECAL 7. MISSING PARTS 13. ON BODY  
4. ON WINDOW 8. LOUD MUFFLERS 14. VINYL TOP  
9. DAMAGE TO FRONT 15. DOOR PANELS REMOVED  
10. DAMAGE TO REAR 16. TORN SEAT(S)/HEADLINER17. SPECIAL WHEELS/TIRES  
(MAGS, WIDE TIRES, ETC.)  
18. EXTRA ANTENNA(S)/MIRRORS  
19. CB HANDLE/CALL NUMBERS  
20. OTHER

(26) Further Vehicle/Bicycle Description

(27) Insurance Company

Policy Number

(28) Value of Vehicle/Bicycle

\$

(29) Vehicle/Bicycle Insured?

☒ Yes

No

## (30) Type Premises

1. Single Family House
2. Apartment
3. Hotel/Motel
4. Other Residential

5. Chain/Convenience Store
6. Liquor Store
7. Gas/Service Station
8. Other Retail Sales
9. Bar/Lounge

10. Bank/Savings & Loan
11. Finance Company
12. Other Commercial House
13. Car/Bus/Truck
14. Office

15. Street/Roadway
16. School/Public Building
17. Park
18. Parking Lot
19. Other

Case Number

2015-BCSO-004148

CRIME AGAINST PROPERTY M. O.	(31) Direction	(33) Entry / Exit Description		(34) Method of Entry	(35) Instrument/Tool Used for Entry	
	Entry Only	Point of Entry/Exit		1. Pried	1. Blackjack/Club	11. Key/Pick/Plastic
	1. North	1 / 1 Door	13 / 13 Unknown	2. Broke	2. Bodily Force	12. Knife
	2. South	2 / 2 Window	14 / 14 Other	3. Cut	3. Bolt Cutter	13. Lock-Puller
	3. East	3 / 3 Wall	15 / 15 N/A	4. Chop/Pound	4. Chan. Lock/Vice Grips	14. Pliers
(32) Location	4 / 4 Garage	(Burglary M.V.)		5. Remove	5. Coat Hanger/Wire	15. Pry Bar
4. West	5 / 5 Fence	Entry Only		6. Concealment	6. Cutting Torch	16. Rock/Brick
Entry Only	6 / 6 Roof	7 / 7 Floor	16. Vent Window	7. Threats	7. Drill	17. Screwdriver
1. Front	8 / 8 Skylight	8 / 8 Door Window	17. Door Window	8. Attempt Only	8. Explosives/Chemicals	18. Unknown
2. Right Side	9 / 9 Fire Escape	18. Door	18. Door	9. Unlocked	9. Glass Cutter	19. Other
3. Left Side	10 / 10 Duct/Vent	19. Hood	19. Hood	10. Open For Trade	10. Gun (Describe)	20. N/A
4. Rear	11 / 11 Sliding Glass Door	20. Trunk	20. Trunk	11. Unknown		
	12 / 12 Adjacent Building	21. Windshield/Back Glass	21. Windshield/Back Glass	12. Other		
				13. N/A		
FORGERY AND CREDIT CARD ABUSE	(36) Suspects Actions		(37) Complainant Was		(38) Crime Elements	
	1. Ate/Drank on Premises		1. At Funeral/Church/Wedding		1. Alarm Inoperative	
	2. Attempt Defeat/Deactivated Alarm		2. At Home		2. Victim of Similar Crime	
	3. Crime not Complete		3. At Work/School		3. Object of Attack - Abandoned or Under Construction	
	4. Crime Skillfully Done		4. Absent (Ad in Paper)		4. N/A	
5. Knew Location of Hidden Valuable		5. Moving				
6. Malicious Destruction		6. Out of Town				
7. Removed Prints/Gloves						
8. Tripped Alarm/Returned Later						
9. Turned Lights on/off						
10. Used Tools Found at Scene						
11. Other						
12. N/A						
(39) Document Type	(40) I.D. Presented		(41) Account No. (Check or Credit Card)			
1. Personal Check	5. Credit Card	1. Drivers License	(42) Check No.			
2. Payroll Check	6. Counterfeit Check	2. Social Security	(43) Name of Bank			
3. Money Order	7. Counterfeit Currency	3. Credit Card	(44) Name of Payee: (Pay to the order of)			
4. Traveler's Check	8. Other	4. Other				

(41) Explain "Other" Responses by Box Number

(42) List Significant M.O. by Box Number

(43) Details of the Offense/Event

I was dispatched to the listed location for a disturbance call. Upon my arrival I made contact with C who was extremely upset, shaking and crying. C advised that while at her listed residence she had a verbal argument with SP over him being intoxicated. SP wanted to go the store with C, O3 and O4 to pick up items for O3 and O4. C advised that she told SP that she did not want SP to go to the store due to him being extremely intoxicated. C stated that SP became very upset and she left her listed residence with O3 and O4 in the back seat of her listed vehicle. C advised that SP got into his listed vehicle and followed C onto Walzem Rd. C stated that SP attempted to ram her vehicle with his vehicle from behind. C advised that SP was unsuccessful because she kept speeding up to attempt to get away from SP. C stated that she was in the left lane on Walzem going toward FM 78 when SP pulled up alongside of her moving vehicle (on the right) and rammed his vehicle into C's making contact with the right (passenger's) side rear. C advised that SP attempted several more times to intentionally swerve into her vehicle while moving. C believes that SP was attempting to force her into oncoming traffic. C stated that she was in fear for her life and for the lives of her two children (O3 and O4) that were in the back seat of C's car. C denied medical care at the scene and no injuries were reported or observed at that time. C was however, clearly upset and crying because of the incident. I contacted O1 and O2. O2 made location and conducted her investigation. C was given a case number and instructions for follow up. C was also given Victim's advocate information.

Check One  
☐ Yes - Victim Notified of Provision of Victim Compensation Act (Ar. 6309 - IV, T. C. S.)  
☐ No - (Explain in Details)

Officers Signature

Badge #

Date

Time

Supplement Attached ☒

1058

January 30, 2015

2100

☒ ☐

☐ FIELD INTERVIEW

BCSO Form No. 154

**(4B) CASE NO.:**

2015-BCSO-004148

WEAPON DESC.	(72) WEAPON		(73) GUN FEATURES			
	SUBJECT NO. 1 2 3	SUBJECT NO. 1 2 3	SUBJECT NO. 1 2 3	SUBJECT NO. 1 2 3	SUBJECT NO. 1 2 3	
	1 1 1 HANDGUN 2 2 2 SHOTGUN 3 3 3 RIFLE 4 4 4 DERRINGER 5 5 5 SIMULATED GUN 6 6 6 UNKNOWN GUN	7 7 7 SWITCHBLADE 8 8 8 POCKET KNIFE 9 9 9 BUTCHERSTEAK 10 10 10 MACHETE 11 11 11 SWORD 12 12 12 OTHER	1 1 1 CHROME/NICKLE 2 2 2 BLUE STEEL 3 3 3 AUTOMATIC 4 4 4 REVOLVER 6 5 5 SHORT BARREL 6 6 6 LONG BARREL	7 7 7 SINGLE BARREL 8 8 8 DOUBLE BARREL 9 9 8 SAWED-OFF 10 10 10 BOLT ACTION 11 11 11 ALTERED STOCK 12 12 12 WHITE GRIPS	13 13 13 WESTERN-STYLE 14 14 14 LARGE BORE 15 15 15 SMALL BORE 16 16 16 PUMP 17 17 17 OTHER	
		MAKE	MODEL		CAL/GAUGE	



## BEXAR COUNTY SHERIFF'S OFFICE

BCSO Form No 184

CASE NO.

2015-BCSO-004148

VEHICLE INFORMATION	(74) <input checked="" type="checkbox"/> SUSPECT <input type="checkbox"/> RECOVERED	DRIVER WAS (CODE) SP	LIC. NO UNKNOWN	LIC ST TX	YR / TYP 15 PS	VEH. YEAR UNKNOWN	MAKE FORD	MODEL F150	STYLE TRUCK	VIN NO UNKNOWN	
	(75) COLOR 1 (SOLID) 22 (OR TOP)		COLOR 2 1	(76) SPECIAL VEHICLE FEATURES (CIRCLE NUMBERS BELOW):							
	1 BEIGE 2 BLACK 3 BLUE/LIGHT 4 BLUE 5 BLUE/DARK 6 BRONZE 7 BROWN 8 COPPER		9 CREAM 10 GOLD 11 GRAY 12 GREEN/LIGHT 13 GREEN 14 GREEN/DARK 15 MAROON 16 ORANGE	17 PINK 18 RED 19 SILVER 20 TAN 21 TURQUOISE 22 WHITE 23 YELLOW 24 OTHER	1 LEVEL ALTERED 2 STICKER/DECAL ON BODY/UNDER 3 STICKER/DECAL ON WINDOW 4 RUST OR PRIMER 5 DECORATIVE PAINT 6 WINDOW BROKEN 7 MISSING PARTS 8 LOUD MUFFLERS 9 DAMAGE TO FRONT 10 DAMAGE TO REAR 11 DAMAGE TO SIDE 12 PAINTED INSCRIPTION ON BODY 13 VINYL TOP 14 DOOR PANELS REMOVED 15 TORN SEAT(S)/HEADLINER 16 CAMPER TOP 17 SPECIAL WHEELS/TIRES (MAGS, WIDE TIRES, ETC) 18 EXTRA ANTENNA(S)/MIRRORS 19 CB HANDLE/CALL NUMBERS 20 OTHER						
(77) FURTHER VEHICLE DESCRIPTION:										(78) DESCRIPTION RELIABILITY (CIRCLE ONE): EXCELLENT GOOD POOR	
RECOVERED VEHICLE	(79) DISTRICT RECOVERED:		(80) Disposition of Vehicle: 1 AUTO POUND 2 RELEASE TO OWNER			(81) METHOD USED: 1 TOWED/CARRIED 2 HOT WIRE 3 KEY IN VEHICLE 4 OTHER					
	(82) CONDITION OF VEHICLE: 3 BURNED 1 STRIPPED 2 WRECKED 4 NO APPARENT DAMAGE		(83) STRIPPED OR MISSING PARTS: 1 ENGINE 2 TRANSMISSION 3 BATTERY 4 BODY PARTS 5 TIRES			8 WHEELS 9 LICENSE PLATE(S) 10 OTHER 7 RADIO 6 SEATS					
CRIME AGAINST PERSON M.O.	(84) PRE-INCIDENT CONTACT: 1 BAR 2 PARTY 3 PLACE OF ENTERTAINMENT (MOVIE, ETC.) 4 RESIDENCE (OWN, OTHER) 5 SHOPPING 6 SCHOOL 7 PARK/RECREATIONAL FAC 8 COMPLAINANT KNOWS SUSP 9 NONE 10 N/A		(85) SUSPECT/COMPLAINANT LOC.: 1 SUSPECT A PEDESTRIAN 2 SUSPECT IN A VEHICLE 3 COMPLAINANT A PEDESTRIAN 4 COMPLAINANT IN VEHICLE 5 N/A		(86) SUSP PRETENDED TO BE: 1 CUSTOMER 2 SEEKING SOMEONE 3 AIDING COMPLAINANT 4 BLIND, CRIPPLED, ETC 5 DELIVERY/REPAIRMAN 6 RENTING 7 MILITARY PERSON 8 POLICE OFFICER 9 OTHER 10 N/A		(87) SUSPECT SOLICITED/OFFERED: 1 AID FOR VEHICLE 2 RIDE 3 USE PHONE 4 INFORMATION 5 MONEY 6 SEX 7 ASKED FOR MERCHANDISE 8 DRUGS 9 3-CARD MONTY 10 PIGEON DROP 11 HOME REPAIR 12 OTHER TYPE CON GAME 13 OTHER 14 N/A				
	(88) SUSPECT'S ACTIONS: 1 DEMANDED MONEY 2 MADE GESTURES 3 RIP OUT TELEPHONE 4 USED NOTE 5 USED LOCK OUT/ACCOMPLICE 6 FIRED SHOTS 7 PURSE SNATCH 8 ASSAULT(S)		9 TOOK COMP'S CLOTHING 10 RAPED COMPLAINANT 11 FONDLED COMPLAINANT 12 RAPED MORE THAN ONCE 13 RIPPED/CUT CLOTHING 14 USED LUBRICANT 15 OTHER 16 N/A		(89) FORCED COMPLAINANT TO: 1 LIE DOWN 2 ENTER RESTROOM 3 REAR OF BUILDING 4 DISROBE 5 PLACE PROPERTY IN BACK 6 UNNATURAL SEX ACT(S) 7 NO FORCE 8 OTHER 9 N/A		(90) WEAPON - MEANS OF ATTACK: 1 GUN (DESCRIBE) 2 KNIFE/CUT/STAB INSTRUMENT 3 ROCK OR BRICK 4 EXPLOSIVES 5 STRANGULATION 6 BODILY FORCE- HANDS/FEET 7 BURN/SCALD 8 BLACKJACK/CLUB 9 GAS/CARBON MONOXIDE 10 POISON/DRUGS/LIQUOR 11 THREATS AGAINST COMPLAINANT/FAMILY 12 MUTUAL CONSENT 13 VEHICLE (DESCRIBE) 14 OTHER 15 N/A				
	(91) FORCE INFLECTED: 1 HANDCUFF/TOE COMPLAINANT 2 BURN/SCALD COMPLAINANT 3 COVERED COMPS FACE 4 CUT/STAB COMPLAINANT 5 PULL/GRAB COMPLAINANT 6 SHOT COMPLAINANT 7 CHOKE/STRANGLE COMPLAINANT		8 BLINDFOLD/GAG COMPLAINANT 9 HIT COMPLAINANT PRIOR TO ACT 10 HIT COMPLAINANT DURING ACT 11 HIT COMPLAINANT AFTER ACT 12 OTHER 13 NONE		(92) VEHICLE INVOLVEMENT: 1 HID IN REAR SEAT 2 COMP FORCED INTO VEH 3 COMP'S VEHICLE TAKEN 4 COMP PARKING/GARAGING 5 FORCE C COMP'S VEHICLE TO CURB 6 COVER/BEND/ALTER LICENSE PLATE 7 FORCED WAY INTO VEHICLE 8 DISABLED COMPS VEHICLE 9 N/A		(93) MEANS OF ESCAPE: 1 VEHICLE-ALONE 2 VEHICLE COHORTS 3 BICYCLE 4 FOOT 5 UNKNOWN 6 N/A (94) COMPLAINANT WAS: 1 OPENING/CLOSING BUSINESS 2 PHYSICALLY/MENTALLY HANDICAPPED 3 INTOXICATED 4 TOURIST 5 GAMBLING 6 ALONE 7 OTHER 8 N/A				
	(95) COMPLAINANT'S OCCUPATION:				(96) PLACE OF EMPLOYMENT:				(97) UNIFORM WORN ? YES NO		
	(98) EXPLAIN OTHER RESPONSES BY BOX NO.:										

(99) LIST SIGNIFICANT M.O. BY BOX NO.

1 2 3 4 5

(100) ADDITIONAL DETAILS/INFORMATION

# Declaration of Complaint

STATE OF TEXAS }  
COUNTY OF BEXAR }

Bexar County Case #

Detective A. Lopez #1624



Date: 1-30-15

I, Elisa Erickson the undersigned complainant do hereby state that

I WISH / I DECLINE to prefer charges and / or testify in court as a witness against the following actor, in the cause.

Actor's name: Benjamin Erickson

Actor's address: 770 Kirk Place

Offense and / or Incident: Agg Assault Deadly Weapon

Date of Offense: 1-30-15

Time: 7:30 PM

Complainant's Name: Elisa Erickson

Complainant's Address: 7219 Archers Grove apt 78244

Complainant's Phone Number: (210) 818 0712

Employment Address: self-employed

Complainant's Signature: Elisa Erickson

DATE: 1/30/15

**SUPPLEMENTARY REPORT**  
*Criminal Investigations Division*

Assignment No: 2015 -4148

Reporting Investigator (Name & ID): Det. A. Menchaca #4016

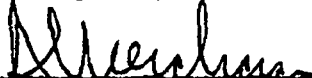
Offense Code: \_\_\_\_\_

Offense / Incident <b>Agg. Assault and Endangering a Child</b>	Section Assigned <b>Violent Crimes</b>	District <b>A40</b>
Place of Occurrence - Address, Block or Intersection <b>Walzem and FM 78</b>	Date & Time of Offense / Incident <b>01/30/15 7:58 pm</b>	Date of this Report <b>01/31/15</b>
Complainant - Last, First M <b>Erickson, Elisa</b>	Address (Include City, State and Zip) <b>7219 Archers Grove San Antonio, Texas 78244</b>	
DL / ID / SSN - Number, state	Date of Birth <b>10/08/73</b>	Home Phone (Include area) <b>210-818-0712</b>
Case Status <b>Investigative Supplement</b>	Work/Other (Include area)	
Modus Operandi (MO)		

Additional Details of Offense - Progress of Investigation - Disposition of Evidence, Property, etc.

On 01/31/15 I was contacted by Investigator Lopez #1624 in regard to an Aggravated assault and endangering a child. I made contact with Elisa Erickson who said she and Benjamin Erickson are divorced, and today she met with him while she had her children in the back seat of her car. Celine and Brandon Erickson are the children of Elisa and Benjamin Erickson. As Elisa attempted to call the police, and drove away from Benjamin. Benjamin began following Elisa in his vehicle and attempted to drive his vehicle into hers as she was driving with their children. At one point near Walzem and FM 78, Benjamin struck Elisa's vehicle with his vehicle several times. Elisa saw a Bexar County Deputy in a patrol unit and waved him down. Investigator Lopez took a statement from Elisa and I wrote an emergency protective order on behalf of Elisa. An arrest warrant was issued for Benjamin, and upon his arrest, the emergency protective order was given to the arresting officer.

Submitting Investigator's Signature



**BEXAR COUNTY SHERIFF'S OFFICE**

**200 North Comal  
San Antonio, Texas 78207-3505**

Page 1 of 1

FORM 350-210 (09/2004)



No. 2015CR3807 COUNT  
INCIDENT No./TRN: 9112075647

THE STATE OF TEXAS

§  
§  
§  
§  
§  
§  
§

IN THE 379TH DISTRICT

VS.

COURT

BENJAMIN ERICKSON

BEXAR COUNTY, TEXAS

STATE ID No.: TX4554638

## JUDGMENT OF CONVICTION BY COURT—WAIVER OF JURY TRIAL

Judge Presiding: HON. RON RANGEL Date Judgment Entered: 06-04-2015

Appearances: STEPHANIE R BOYD Attorney for State: Attorney for Defendant: MARK JOHN MCKAY

Offense for which Defendant Convicted:

AGG ASSLT W/DEADLY WPN

Charging Instrument:

INDICTMENT

Statute for Offense:

22.02 (A) (2) PC

Date of Offense:

01-30-2015

Degree of Offense:

2ND

Plea to Offense:

NOLO CONTENDERE

Findings on Deadly Weapon:

DEADLY WEAPON FINDING

Terms of Plea Bargain:

SIX (6) YEARS TDCJ-ID

Plea to 1<sup>st</sup> Enhancement

Paragraph: N/A

Plea to 2<sup>nd</sup> Enhancement/Habitual

Paragraph:

Findings on 1<sup>st</sup> Enhancement

Paragraph: N/A

Findings on 2<sup>nd</sup>

Enhancement/Habitual Paragraph:

Date Sentence Imposed: 06-04-2015

Date Sentence to Commence: 06-04-2015

Punishment and Place  
of Confinement:

6 YRS TDCJ-ID AND A FINE OF \$ 0.00 IMPRISONMENT (INSTITUTIONAL DIVISION):

THIS SENTENCE SHALL RUN CONCURRENT WITH 2015CR3805 IN BEXAR COUNTY, TEXAS



SENTENCE OF CONFINEMENT SUSPENDED, DEFENDANT PLACED ON COMMUNITY SUPERVISION FOR N/A

Fine:

\$ 0.00

Court Costs:

\$ 304.00

Restitution:

\$ 0.00

Restitution Payable to:

☐ VICTIM (see below) ☐ AGENCY/AGENT (see below)

Sex Offender Registration Requirements do not apply to the Defendant. TEX. CODE CRIM. PROC. chapter 62

The age of the victim at the time of the offense was

If Defendant is to serve sentence in TDCJ, enter incarceration periods in chronological order.

From: 01/31/2015 To: 06/04/2015 From: To: From: To:

Time Credited: From: To: From: To: From: To:

From: To: From: To: From: To:

If Defendant is to serve sentence in county jail or is given credit toward fine and costs, enter days credited below.

NOTES: N/A

All pertinent information, names and assessments indicated above are incorporated into the language of the judgment below by reference.

This cause was called for trial in Bexar County, Texas. The State appeared by her District Attorney.

06082015 V1309P3160



Counsel / Waiver of Counsel (select one)

- ☒ Defendant appeared in person with Counsel.
- ☐ Defendant knowingly, intelligently, and voluntarily waived the right to representation by counsel in writing in open court.

Both parties announced ready for trial. Defendant waived the right of trial by jury and entered the plea indicated above. The Court then admonished Defendant as required by law. It appeared to the Court that Defendant was mentally competent to stand trial, made the plea freely and voluntarily, and was aware of the consequences of this plea. The Court received the plea and entered it of record. Having heard the evidence submitted, the Court found Defendant guilty of the offense indicated above. In the presence of Defendant, the Court pronounced sentence against Defendant.

The Court FINDS Defendant committed the above offense and ORDERS, ADJUDGES AND DECREES that Defendant is GUILTY of the above offense. The Court FINDS the Presentence Investigation, if so ordered, was done according to the applicable provisions of TEX. CODE CRIM. PROC. art. 42:12 § 9.

The Court ORDERS Defendant punished as indicated above. The Court ORDERS Defendant to pay all fines, court costs, and restitution as indicated above.

Punishment Options (select one)

- ☒ **Confinement in State Jail or Institutional Division.** The Court ORDERS the authorized agent of the State of Texas or the Sheriff of this County to take, safely convey, and deliver Defendant to the Director, Institutional Division, TDCJ. The Court ORDERS Defendant to be confined for the period and in the manner indicated above. The Court ORDERS Defendant remanded to the custody of the Sheriff of this county until the Sheriff can obey the directions of this sentence. The Court ORDERS that upon release from confinement, Defendant proceed immediately to the Bexar County District Clerk. Once there, the Court ORDERS Defendant to pay, or make arrangements to pay, any remaining unpaid fines, court costs, and restitution as ordered by the Court above.
- ☐ **County Jail—Confinement / Confinement in Lieu of Payment.** The Court ORDERS Defendant immediately committed to the custody of the Sheriff of Bexar County, Texas on the date the sentence is to commence. Defendant shall be confined in the Bexar County Jail for the period indicated above. The Court ORDERS that upon release from confinement, Defendant shall proceed immediately to the Bexar County District Clerk. Once there, the Court ORDERS Defendant to pay, or make arrangements to pay, any remaining unpaid fines, court costs, and restitution as ordered by the Court above.

Execution / Suspension of Sentence (select one)

- ☒ The Court ORDERS Defendant's sentence EXECUTED.
- ☐ The Court ORDERS Defendant's sentence of confinement SUSPENDED. The Court ORDERS Defendant placed on community supervision for the adjudged period (above) so long as Defendant abides by and does not violate the terms and conditions of community supervision. The order setting forth the terms and conditions of community supervision is incorporated into this judgment by reference.

The Court ORDERS that Defendant is given credit noted above on this sentence for the time spent incarcerated.

Furthermore, the following special findings or orders apply:

DEADLY WEAPON FINDING; IT IS FURTHER ORDERED DEFENDANT HAVE NO HARMFUL OR INJURIOUS CONTACT WITH: ELISA ERICKSON, E [REDACTED] E [REDACTED]; C [REDACTED] E [REDACTED]

Signed and entered on this \_\_\_\_\_ day of \_\_\_\_\_ 2015

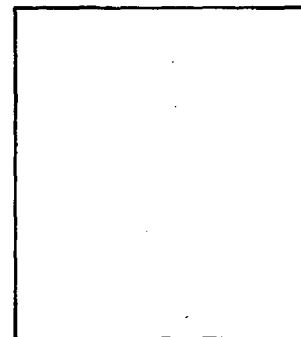
Notice of Appeal: DENIED

JUN 04 2015  
  
 JUDGE PRESIDING  
 RON RANGEL  
 379TH DISTRICT COURT  
 BEXAR COUNTY, TEXAS

Clerk: 13300



DC2015CR3807



Right Thumbprint

06082015 V1309P3161

BEXAR



COUNTY

**Donna Kay McKinney**

DISTRICT CLERK

PAUL ELIZONDO TOWER  
101 W. NUEVA ST. STE 217  
SAN ANTONIO, TEXAS 78205  
August 18, 2015

WRIT NO: **2015CR3807 -W1**

EX PARTE: **ERICKSON, BENJAMIN**

I ACKNOWLEDGE RECEIPT OF AN APPLICATION FOR WRIT OF HABEAS  
CORPUS

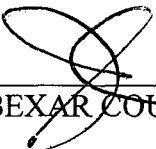
FOR: **ERICKSON, BENJAMIN** CAUSE NO **2015CR3807**

SUCH APPLICATION WAS RECEIVED FROM BEXAR COUNTY DISTRICT

CLERK'S OFFICE ON THIS **August 18, 2015**, HEREBY WAIVING ISSUANCE OF

SERVICE BY CERTIFIED MAIL, RETURNED RECEIPT THAT'S REQUESTED.

SIGNED:

  
BEXAR COUNTY DISTRICT ATTORNEY OFFICE

EX PARTE:

FILED  
DONNA KAY MCKINNEY  
DISTRICT CLERK IN THE DISTRICT COURT  
BEXAR COUNTY

BENJAMIN ERICKSON

2015 SEP 22 A 10:40 379TH JUDICIAL DISTRICT

APPLICANT

DEPUTY BEXAR COUNTY, TEXAS

BY NUNCA RIVERA

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STATE'S RESPONSE TO APPLICANT'S PETITION  
FOR WRIT OF HABEAS CORPUS

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TO THE HONORABLE JUDGE OF SAID COURT:

Comes now the State of Texas by and through its Criminal District Attorney, Nicholas "Nico" LaHood, and files this response to the Applicant's Petition for Writ of Habeas Corpus.

I. Habeas Writ Filed

The Applicant Benjamin Erickson filed this petition for a post-conviction writ of habeas corpus pursuant to art. 11.07, § 3(a), Texas Code of Criminal Procedure. The State files this mandatory answer pursuant to art. 11.07 § 3(b).

II. Statement of the Case

The Applicant was convicted of the offense of Aggravated Assault with Deadly Weapon in Cause No. 2015-CR-3807 and punishment was assessed at confinement for 6 years. His petition for a writ of habeas corpus was filed on August 10, 2015. The State was served by the District Clerk of Bexar County on August 18, 2015.

III. State's General Denial


The State generally and specifically denies each and every allegation of fact made by the Applicant and demands strict proof of same.

CONCLUSION

WHEREFORE, PREMISES CONSIDERED, the State would ask that the trial court enter an ORDER recommending the relief be denied.

Respectfully submitted,

NICHOLAS "NICO" LAHOOD  
Criminal District Attorney  
Bexar County, Texas

  
JAY BRANDON

Assistant Criminal District Attorney  
Bexar County, Texas  
Paul Elizondo Tower  
101 W. Nueva  
San Antonio, Texas 78205  
SBN: 02880500  
(210) 335-2418  
(210) 335-2436-FAX

*Attorneys for the State*

CERTIFICATE OF SERVICE

I, Jay Brandon, Assistant Criminal District Attorney, Bexar County, Texas, certify that a true and correct copy of the foregoing response will be mailed to Benjamin Erickson, Garza West Unit, 4250 Hwy 202, Beeville, Texas, 78102, on this the <sup>22<sup>nd</sup></sup> 8<sup>th</sup> day of September, 2015.

  
JAY BRANDON



NO. 2015CR3807-W1

EX PARTE	§	IN THE DISTRICT COURT
	§	379 <sup>TH</sup> JUDICIAL DISTRICT
BENJAMIN ERICKSON	§	BEXAR COUNTY, TEXAS

**ORDER**

Applicant, **Benjamin Erickson**, has filed a *pro se* application for a post-conviction writ of habeas corpus pursuant to Article 11.07 of the Texas Code of Criminal Procedure, collaterally attacking his conviction in cause number **2015CR3807**. TEX. CODE CRIM. PROC. art. § 11.07 (West 2014).

**HISTORY OF THE CASE**

On or about June 04, 2015, Applicant pled *nolo contendere* to the offense of **aggravated assault with a deadly weapon**. Applicant was sentenced to six (6) years TDCJ-ID.

On July 07, 2015, The Fourth Court of Appeals issued an Order extending the appellate deadlines and giving Applicant notice that his consolidated appeals would be dismissed unless amended certifications showing that Applicant has the right to appeal in each case were made part of the appellate record on or before August 6, 2015. (04-15-00387-CR and 04-15-00388-CR).

As of the filing of Applicant's application, the mandate from the Fourth Court of Appeals has not issued.

This application was filed on August 10, 2015. A copy of this application was received by the District Attorney's Office on August 18, 2015.

### **ALLEGATIONS OF APPLICANT**

1. In his first ground for relief Applicant alleges ineffective assistance. Applicant claims that counsel failed to, do any research into his cases, examine the forensic evidence, request a mental evaluation and/or inform the court that Applicant's wife is using this case to manipulate the divorce and custody cases in another court.

Applicant further claims that he is "basically illiterate" and that he could neither read nor understand the plea agreement but instead had to rely on the advice of counsel. According to Applicant, counsel "lied about what he was signing and why he was signing it." Applicant claims that counsel became agitated using profane language and saying he needed to "sign the (blanking) plea before his wife shows up and makes these worse."

Applicant avers that he maintained his desire to go to trial and that there is no evidence supporting the State's claim that a crime has been committed.

2. In his second ground for relief Applicant claims that he lacked the mental capacity to understand or assist in his trial proceedings. According to Applicant, he was diagnosed with PTSD while incarcerated at the Bexar County Jail.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. The Fourth Court of Appeals issued an opinion on July 15, 2015, as of the filing of the Applicant's application, the mandate has not issued.
2. This application for writ of habeas corpus was filed during the pendency of Applicant's direct appeal as the Fourth Court of Appeals has not yet issued a mandate on this case.

Consequently, the Court of Criminal Appeals does not have jurisdiction to consider this application for writ of habeas corpus. *See Ex parte Johnson*, 12 S.W.3d 472 (Tex. Crim. App. 2000)(where the application is filed in the trial court prior to the issuance of the

mandate of the court of appeals, the disposition of the merits is premature, and the court does not have jurisdiction to consider the application).

3. Based on the foregoing findings of fact and conclusions of law, it is hereby recommended that this application be **DISMISSED**.

### **ORDERS**

The District Clerk of Bexar County, Texas, is hereby ordered to prepare a copy of this document, together with any attachments and forward the same to the following persons by mail or the most practical means:

- a. The Court of Criminal Appeals  
Austin, Texas 78711
- b. Susan D. Reed  
Criminal District Attorney  
Cadena - Reeves Justice Center  
Bexar County, Texas 78205
- c. Benjamin Erickson  
TDCJ: 02003867  
Garza West  
4250 Highway 202  
Beeville, TX 78102

SIGNED, ORDERED and DECREED on

9/9/15



**JUDGE RON RANGEL**  
379TH Judicial District Court  
Bexar County, Texas

# *Certificate*

THE STATE OF TEXAS  
COUNTY OF BEXAR

I, **Donna Kay M<sup>c</sup>Kinney**, Clerk of the 379TH Judicial District Court, in  
and for Bexar County, State of Texas, do hereby certify that the above and foregoing are  
true and correct copies of all the proceedings had in the case of

**EX PARTE ERICKSON, BENJAMIN 2015CR3807-W1**

**HONORABLE: RON RANGEL PRESIDING** the same appear from  
the originals now on file and record in this office.

**GIVEN UNDER MY HAND AND SEAL** of said Court at office in the City of  
San Antonio, Texas, on this the 22<sup>ND</sup> day of SEPTEMBER, A.D., 2015.



**Donna Kay M<sup>c</sup>Kinney**  
Clerk of the District Courts  
Bexar County, Texas

By Monica Rivera  
MONICA RIVERA  
DEPUTY DISTRICT CLERK

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